

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NOEMI MARTE,

Plaintiff,

-against-

RULE 26 DISCLOSURE

08 Civ 4338 (PAC)

BRIAN KEITH MOREHART and LUCAS
TRUCKING CORP.,

Defendants.
-----X

Defendants, BRIAN KEITH MOREHART and LUCAS TRUCKING CORP., as and for their disclosure under Rule 26 of the Federal Rules of Civil Procedure, hereby set forth as follows:

1. Individuals with discoverable information:

Other than the parties named to the within action, defendants are aware of the driver of the vehicle plaintiff was allegedly a passenger in, Cynthia E. Stinziano, 2202 Wickham Avenue, Bronx, New York 10469 and Alexia Derizzio, employed with Monroe College, New Rochelle, New York.

2. Relevant documents and tangible things under parties' control.

Attached are copies of the Police Accident Report and the accident report filled out by defendant.

3. Information related to calculation of damages.

Not applicable to this party.

4. Insurance agreements.

Northland Insurance Company, P.O. Box 64805, St. Paul, MN 55164-0805, provides coverage to the answering defendants in the amount of \$1,000,000 under policy number TF517303, policy period 1/25/07 to 7/1/07.

Dated: New York, New York
June 13, 2008

LAW OFFICE OF JOHN P. HUMPHREYS



BY: ~~FREDERICK D SCHMIDT JR~~ (FDS 8821)

Attorneys for Defendants

**BRIAN KEITH MOREHART and
LUCAS TRUCKING CORP.**

485 Lexington Avenue, 7th Floor

New York, NY 10017

(917) 778-6600

Matter No.: 0910279

TO:

Mitchell Franzblau, Esq.
BELOVIN & FRANZBLAU, LLP
Attorneys for Plaintiff
2311 White Plains Road
Bronx, New York 10467
(718) 655-2900

ACCIDENT REPORT (NYC)
MV-104AN (5/04)

Amended Report ☐ **AMENDED REPORT**

Accident Date: Month 5 Day 17 Year 07 Day of Week Thur Military Time 0856 No. of Vehicles 2 No. Injured 0 No. Killed 0 Not Investigated at Scene ☐ Left Scene ☐ Police Photos ☐ Reconstructed ☐ ☐ Yes ☐ No

VEHICLE 1 ☐ VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 1 - Driver License ID Number 446 304 339 State of Lic. NY VEHICLE 2 - Driver License ID Number 22 997 113 State of Lic. PA
Driver Name - exactly as printed on license Stinziano, Cynthia, E Driver Name - exactly as printed on license Brian Keith Morehart

Address (Include Number & Street) 2202 Wickham Ave Apt. No. Address (Include Number & Street) 111 High St P.O. Box 121 Apt. No.
City or Town Bronx State NY Zip Code 10469 City or Town P. Trout Run State PA Zip Code 17771

Date of Birth Month 2 Day 16 Year 58 Sex F Unlicensed ☐ No. of Occupants 3 Public Property Damaged ☐ Date of Birth Month Day Year Sex Unlicensed ☐ No. of Occupants 1 Public Property Damaged ☐

Name - exactly as printed on registration Nicholas Gyory Sex M Date of Birth Month Day Year Name - exactly as printed on registration Lucas Trucking Corp Sex Date of Birth Month Day Year

Address (Include Number & Street) 2202 Wickham Ave Apt. No. Haz. Mat. Code Released ☐ Address (Include Number & Street) 9657 N Rt 220 Hwy Apt. No. Haz. Mat. Code Released ☐

City or Town BX State NY Zip Code City or Town Jersey Shore State PA Zip Code 17740
Plate Number DZL 4056 State of Reg. NY Vehicle Year & Make 07 Infiniti Vehicle Type 4DSD Ins. Code Plate Number AE36839 State of Reg. PA Vehicle Year & Make 03 Freightliner Vehicle Type Ins. Code

Ticket/Arrest Number(s) Violation Section(s) Ticket/Arrest Number(s) Violation Section(s)

Check if involved vehicle is:
☐ more than 95 inches wide;
☐ more than 34 feet long;
☐ operated with an overweight permit;
☐ operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES
Box 1 - Point of Impact 1 Box 2 - Most Damage 7
Enter up to three more Damage Codes 3 4 5

Vehicle By Brothers Towing
Towed: To 222nd + Gribbin

VEHICLE DAMAGE CODING:
1. 13. SEE DIAGRAM ON RIGHT.
14. UNDERCARRIAGE 17. DEMOLISHED
15. TRAILER 18. NO DAMAGE
16. OVERTURNED 19. OTHER

Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.
1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446.

| | | | | | | | | | |
|---------------|-----|-----------------------|-----|------|--|-----|-----------------------|-----|------|
| A Last Name | | First | | M.I. | D Last Name | | First | | M.I. |
| Address | | | | | Address | | | | |
| Date of Birth | | Telephone (Area Code) | | | Date of Birth | | Telephone (Area Code) | | |
| Month | Day | Year | () | | Month | Day | Year | () | |
| B Last Name | | First | | M.I. | E Last Name | | First | | M.I. |
| Address | | | | | Address | | | | |
| Date of Birth | | Telephone (Area Code) | | | Date of Birth | | Telephone (Area Code) | | |
| Month | Day | Year | () | | Month | Day | Year | () | |
| C Last Name | | First | | M.I. | Highway Dist. at Scene? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| Address | | | | | Name: | | | | |
| Date of Birth | | Telephone (Area Code) | | | Shield No. | | | | |
| Month | Day | Year | () | | | | | | |

ENTER INSURANCE POLICY NUMBER FROM INSURANCE IDENTIFICATION CARD, EXPIRATION DATE (IN ALL CASES), AND VIN.

| | | | |
|-----------------|-------------------|-----------------|------------------|
| Vehicle No. 1 | 1003849 | Vehicle No. 2 | TF454423 |
| Expiration Date | 6-27-07 | Expiration Date | 7-01-07 |
| VIN | JNKBV61F57H816428 | VIN | 1FUTAHG03LK75646 |

WITNESS (Attach separate sheet, if necessary)

| | | |
|------|---------|-------|
| Name | Address | Phone |
| | | |
| | | |
| | | |

DUPLICATE COPY REQUIRED FOR:

| | | | |
|---|--|---|---|
| <input type="checkbox"/> Dept. of Motor Vehicles
(if anyone is killed/injured) | <input type="checkbox"/> Motor Transport Division
(P.D. vehicle involved) | <input type="checkbox"/> NYC Taxi & Limousine Comm.
(if a Licensed taxi or limousine involved) | <input type="checkbox"/> Other City Agency
(Specify) |
| <input type="checkbox"/> Office of Comptroller
(if a City vehicle involved) | <input type="checkbox"/> Personnel Safety Unit
(if a P.D. vehicle involved) | <input type="checkbox"/> Highway Unit | |

NOTIFICATIONS: (Enter name, address, and relationship of friend or relative notified. If aided person is unidentified, list Missing Person Squad member who was notified. In either case, give date and time of notification.)

| | |
|--|---|
| PROPERTY DAMAGED (other than vehicles) | OWNER OF PROPERTY (include city agency, where applicable) |
| | |
| | |

IF NYPD VEHICLE IS INVOLVED:

| | | | | | | | |
|---------------------------------------|-------------------------------|---------------------------------------|--|--|--|-------------------------------------|---------|
| Police Vehicle-Operator's First Name | | Last Name | | Rank | Shield No. | Tax ID. No. | Command |
| Make of Vehicle | Year | Type of Vehicle | Plate No. | Dept. Vehicle No. | | Assigned To What Command | |
| Equipment in Use At Time of Accident. | | | | | | | |
| <input type="checkbox"/> Siren | <input type="checkbox"/> Horn | <input type="checkbox"/> Turret Light | <input type="checkbox"/> 4-Way Flasher | <input type="checkbox"/> High-Level Warning Lights | <input type="checkbox"/> Traffic Cones | <input type="checkbox"/> Headlights | |

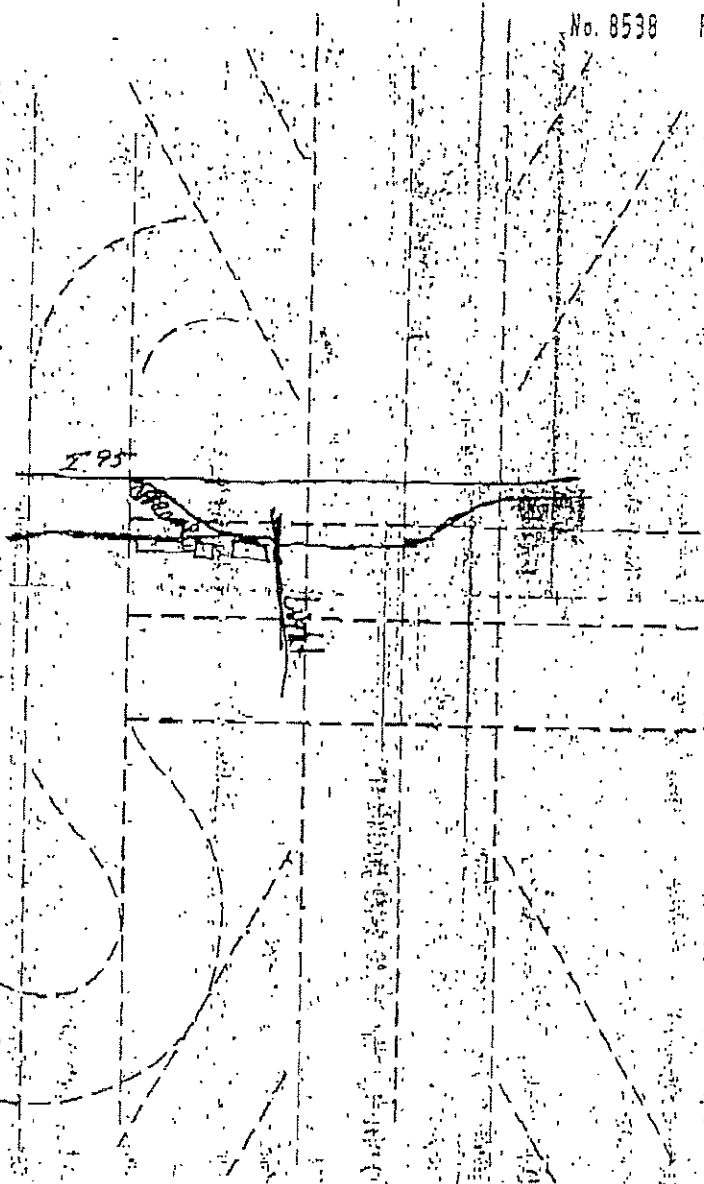
ACTIONS OF POLICE VEHICLE

| | |
|--|---|
| <input type="checkbox"/> Responding to Code Signal | <input type="checkbox"/> Complying with Station House Directive |
| <input type="checkbox"/> Pursuing Violator | <input type="checkbox"/> Routine Patrol |
| <input type="checkbox"/> Other (Describe) | |

ACCIDENT CONDITIONS

USE DIAGRAM TO INDICATE POINTS OF COLLISION

No. 8538 P. 2



Draw Arrow to Indicate North

Surface: (blacktop, concrete, gravel, etc.)

Weather Conditions: (rain, sleet, snow, fog, etc.)

Conditions: (dry, wet, snowy, icy, etc.)

Light Conditions: (dark, daylight, dusk, etc.)

Additional Notes: black marks

about 3 1/2 ft

Describe what happened: we were S.W. of a cross walk that was red, it had changed to blinking yellow
everyone was moving. I was
in the car that was
close to the car that was
coming up the lane, at that time
I thought in corner of eye that the
car in front of me stop. She said
she thought it was a better light.
I thought it was yellow and stopped
at that time a girl in red car
back up driver and hit the car.

Signature: [Signature] Date: 5/17/08

#17517302
517.07

CMA COMMERCIAL INSURANCE

No. 8538
**YOU ARE IN AN ACCIDENT,
FOLLOW THESE STEPS:**

- Stay calm, park safely and set out warning devices.
- Assist injured parties, but do not move the injured unless absolutely necessary.
- Notify police and ambulance if necessary. Use the "Emergency Telephone Aid" card if you cannot leave the scene.
- Identify yourself and your company. Supply operator #, license # and registration if asked.
- Do not discuss the accident with other driver(s) or witnesses.
- Ask all witnesses to complete witness cards.
- If other drivers admit fault, ask them to fill out the "Driver Exoneration Card".
- Follow your company policy regarding accidents and company procedure.
- Comply with all legal paperwork, such as accident reports. Get copies and return to employer with this kit.
- Document the accident with photographs taken from all four sides, include any road or weather conditions.

SCENE INFORMATION

TO BE FILLED OUT BY DRIVER

Company Vehicle Lucas Trucking
Date of Accident 5/17/06 Time 8:18
Location Corp. box

Driver's Name Brian Marchant
Truck # 222 Make & Model _____
License # 4E 36839 State PA

OTHER VEHICLES AND DRIVERS

#1 Driver's Name Sleeve and / or the
Make & Model of Vehicle INCOMPLETE
License # 1221 4056 State NY
Insurance Co. _____
Phone # () _____

#2 Driver's Name _____
Make & Model of Vehicle _____
License # _____ State _____
Insurance Co. _____
Phone # () _____

PROPERTY DAMAGE (other than vehicles)

rear of car

Owner _____ Phone # () _____
Address _____
What Was Damaged _____

POLICE

Officer's Name _____
Badge # _____ Report # _____
Station _____
Citation(s) Given To _____

INJURIES

Name _____
Address _____
Phone # () _____
Describe Injuries _____

Name _____
Address _____
Phone # () _____

16 517303 517.07
Do

STATE OF NEW YORK
COUNTY OF NEW YORK

**AFFIDAVIT OF SERVICE
BY MAIL**

I, MARIA PIZZO, being duly sworn, deposed and says that deponent is a secretary of the LAW OFFICE OF JOHN P. HUMPHREYS, attorneys for one of the parties herein; is over 18 years of age; is not a party to the action. The deponent served the papers noted below by regular mail, the same securely enclosed in the postage paid wrapper in the Letter Box maintained and exclusively controlled by the United States Postal Service at 485 Lexington Avenue, New York, New York 10017; directed to the said attorney(s) at the address indicated below; that being the address within the state designated by said attorney(s) for that purpose, or the place where said attorneys(s) then kept an office, between which places there then was and now is a regular communication by mail as follows:

Date mailed: June 16, 2008

Papers Served: **RULE 26 DISCLOSURE**

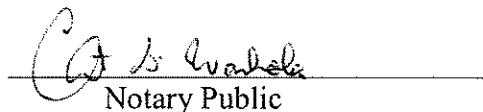
TO:

BELOVIN & FRANZBLAU
Plaintiff Counsel
2311 White Plains Road
Bronx, NY 10467
(718) 655-2900


MARIA PIZZO

Sworn to before me this

16TH day of June, 2008


Notary Public

CHRISTIAN D. WARHOLA
Notary Public, State of New York
No. 01WA615557
Qualified in New York County
Commission Expires November 13, 20 10

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Index No.: 08 CIV 4338 (pac)

NOEMI MARTE,

Plaintiff(s),

-against-

BRIAN KEITH MOREHART and LUCAS TRUCKING CORP.,

Defendant(s).

RULE 26 DISCLOSURE

**Law Office of
JOHN P. HUMPHREYS**

Attorneys for Defendants

**BRIAN KEITH MOREHART
AND LUCAS TRUCKING CORP.**

Office & P.O. Address
**485 Lexington Avenue – 7th Floor
New York, New York 10017**

Tel. No.: (917) 778-6600
Fax No.: (917) 778-7020
(917) 778-7022

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: _____

Signature: _____

Print Signer's Names: _____

Service of a copy of the within

is hereby admitted.

Dated: _____

Attorney(s) for

NOTICE OF ENTRY:

PLEASE TAKE NOTICE that the within is a true copy of an order entered in office of the Clerk of the above Court on the ____ day of _____ 20__.

NOTICE OF SETTLEMENT:

PLEASE TAKE NOTICE that the within proposed order will be presented for settlement and entry at the Courthouse on the ____ day of _____ 20__, at 10:00 a.m. at the office of the Clerk of the Part of this Court where the within described motion was heard.

Dated: _____

New York, New York

**Law Office of
JOHN P. HUMPHREYS**
Attorneys for Defendant(s)
As Designated Above